IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 25132 of 2006(P)

I.D.NO.3/2003 OF LABOUR COURT, KOLLAM DT. 31/10/2003.

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PETITIONER:

K.RASHEED,
MANAGING DIRECTOR,
SILVER FOAM PVT. LTD., MAVOOR ROAD,
PUTHIYARA P.O., CALICUT.

BY ADV. SRI.D.SAJEEV,
SRI.K.R.HARIDAS.

RESPONDENTS:

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1. **STATE OF KERALA,**
   REP. BY THE SECRETARY,
   LABOUR AND REHABILITATION DEPARTMENT,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE SHERISTADAR,**
   LABOUR COURT, KOLLAM.

3. **THE GENERAL SECRETARY,**
   SILVER FOAM WORKERS ASSOCIATION,
   RUSSELPURAM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.BLAZE K.JOSE,
GOVT. PLEADER SRI. BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.25132/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE AWARD DTD. 31/10/2003 IN I.D. NO. 3/2003 PASSED BY THE LABOUR COURT, KOLLAM.

EXT.P.2: COPY OF THE I.A. NO. 131/2005 IN I.D. NO. 3/2003 PASSED BY THE LABOUR COURT, KOLLAM DTD. 29/06/2005.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

S. SIRI JAGAN, J.

WP(C) NO.25132 OF 2006

Dated this the 11th day of July, 2007

J U D G M E N T

The petitioner is the Management in I.D.No.3/03 before the Labour Court, Kollam. The petitioner is challenging Ext.P1 award of the Labour Court in that I.D. Ext.P1 is an ex parte award. The contention of the petitioner is that the petitioner did not receive any notice from the Labour Court in the I.D. and that is how the ex parte award came to be passed. The petitioner therefore seeks quashing of Ext.P1 award and a direction to the Labour Court to re-adjudicate the industrial dispute after affording an opportunity to the petitioner to adduce evidence.

2. The third respondent appears through counsel. The third respondent stoutly opposes the prayer. According to him, notice has been issued to the petitioner in the very same address appearing in the writ petition and therefore, the contention of the petitioner does not have merit.

3. I have considered the rival contentions. From the award, I find that summons of the Management was at first returned with the endorsement 'company locked'. Fresh notice issued was returned as 'unclaimed'. When the company is locked, it is only natural that the petitioner would not know about the postal article and even if the Postman left an intimation at the locked premises, the petitioner would not be able to claim the postal article pursuant to such notice as he is unaware of the fact. As such, I am satisfied that the petitioner has shown sufficient cause for not appearing before the Tribunal.

4. In the above circumstances, I am inclined to set aside Ext.P1 award and to direct the Tribunal to re-adjudicate the dispute. However, since there is no fault on the part of the third respondent in this, the petitioner should pay costs of these proceedings to the third respondent. Accordingly, Ext.P1 award is set aside. The Labour Court is directed to re-adjudicate the dispute after affording an opportunity to both sides to adduce

evidence. However, this shall be on condition that the petitioner pays an amount of Rs.2,000/- as costs to the third respondent. The petitioner shall produce proof of payment of costs to the third respondent along with a certified copy of this judgment before the Labour Court, on receipt of which only the Labour Court need take further proceedings in the Industrial Dispute. If the petitioner fails to pay the costs, he would not be entitled to the benefit of this judgment and Ext.P1 award would stand upheld.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007